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July 12, 2001

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U.S. ENVIRONMENTAL PROTECTION AGENCY

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Andrew Boyd, Esq.
Assistant Regional Counsel (ORC-158)
U.S. Environmental Protection Agency
1200 Sixth Avenue
Seattle, Washington 98101

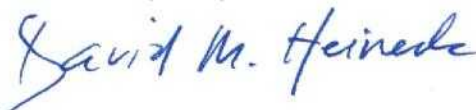
Re: Amendment of RCRA consent decree in U.S. v. FMC Corporation, No. CIV98-0406-E-BLW (D. Idaho)

Dear Mr. Boyd:

Enclosed is a proposed amendment to the RCRA consent decree in the above action that would align the decree with the Shoshone-Bannock Tribes Business Council resolution approving closure in place of Pond 18. This amendment specifies that the Pond 18 closure plan would include the same elements and performance criteria as the EPA-approved closure plan for Pond 8S and the elements listed in the appendix to this revision. It also would preserve FMC's ability to clean close Cell B and withdraw the water from that cell over time to allow this water to be reused in the process rather than discarded as waste.

Given the urgency to have the Pond 18 closure plan submitted, reviewed and approved in time to allow FMC to place an interim cover at Pond 18 Cell A during the 2002 construction season, and thereby substantially reduce emissions from this cell, FMC would like to execute this amendment as soon as possible. I look forward to hearing from you to set up a meeting or conference call to discuss this.

Yours very truly,



David M. Heineck

Enclosure

Letter to Andrew Boyd, Esq.
July 12, 2001
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cc (w/encl.):
Robert Fields
John Stillmun
Rob Hartman

U.S. v. FMC Corporation, No. CIV98-C406-E-BLW (D. Idaho)

Consent Decree Amendment

As provided under Section XXIV of the consent decree entered on July 13, 1999 in the above action and based on the agreement of EPA and FMC Corporation, Attachment A to the consent decree is hereby amended as follows:

1. The following new paragraph 9.a. is added to consent decree Attachment A, Section I, entitled "Closure of Specified Regulated Units:"

"9.a. On or before August 31, 2001, consistent with 40 C.F.R. §265.112(d), FMC shall revise and submit for EPA approval its closure plan for Pond 18, Cells A and B. The Pond 18 closure plan shall provide the same level of detail and completeness as contained in the approved closure plan for Pond 8S. The closure plan shall include the same elements, cap design and performance criteria set forth in the approved Pond 8S closure plan and as further defined and set forth in the following appendix designated as consent decree Appendix 4.A. In the event that FMC decides to remove all water and sediments, if any, collected in Cell B of Pond 18, the elements and performance criteria of the closure implemented at Cell B shall be in accordance with RCRA requirements applicable to clean closure of a surface impoundment and shall

include the elements listed in the following Appendix 4.B. FMC shall complete the placement of the initial fill and temporary cover on Pond 18, Cell A during the first construction season following the year in which EPA approves, by November 30, this component of the closure plan. FMC shall complete placement of the fill and final cover at Pond 18, Cell B by no later than December 31 of the year following the year in which EPA approves, by November 30, this component of the closure plan; provided, however, that in the event FMC decides to remove all water and sediments, if any, collected in Pond 18, Cell B, FMC may continue to withdraw water from Cell B for process use consistent with a schedule to be set forth in the revised closure plan but in no event beyond May 26, 2005. Clean closure of Cell B will be completed thereafter on the schedule prescribed in the EPA approved closure plan. FMC shall close Pond 18 in accordance with all applicable RCRA requirements and the EPA approved closure plan.”

2. The requirements of Paragraph 21 are deleted.
3. The following new paragraph 22.a. is added to Attachment A, Section III, entitled “Interim Pond Management:”

“22.a. FMC shall continue to discharge to Pond 17 only precipitator slurry that has been treated using the NOSAP process in accordance with the NOSAP criteria set forth in the EPA approved Pond Management Plan and shall cease

such discharge by the date specified in Attachment B, Section III, paragraph 20.”

4. The requirements of Paragraph 22 are deleted.

Appendix 4.A: Elements and cap design for in-place closure at Pond 18 Cells A and B

Initial Fill (Cell 18A only)

- Remove bird nets and FTIR
- Place geofabric and piping for temporary dewatering system
- Place sand fill layer
- Place Geoweb, as needed, to provide additional support for construction equipment
- Install wick drains to accelerate dewatering during consolidation/settlement
- Place slag fill
- Install temporary gas monitoring/extraction piping
- Place temporary settlement monuments
- Install temporary 40-mil HDPE liner

Settlement Monitoring (Cell 18A only)

- Dewater using temporary dewatering system
- Inspect and repair temporary liner, if needed
- Monitor settlement for 1 to 3 years until settlement rate reaches 1 inch per year

Final Cap (Cells A and B, except as Noted)

- Remove temporary liner (Cell A only)
- Grade subgrade to design elevation
- Place 12-inch sand layer (composed of 6-inch sand filter layer and 6-inch sand [liner] foundation layer)
- Install gas pressure monitoring and contingent gas extraction piping

- Install temperature monitoring points
- Install Geosynthetic Clay Liner (GCL)
- Install 60-mil HDPE flexible membrane liner (FML) on Cell A, 40-mil HDPE FML on Cell B
- Install Geonet drainage layer and overlying fabric filter
- Place 12-inch sand filter layer
- Place 18-inch coarse slag layer (biointrusion layer) on Cell A, 24-inch slag fill layer on Cell B
- Place 6-inch gravel filter layer on Cell A only
- Place 6-inch sand filter layer on Cell A only
- Place 30-inch topsoil layer on Cell A, 12-inch topsoil layer on Cell B
- Place 12-inch topsoil with admixed pea gravel layer on Cell A only
- Install soil depth monitors on Cell A only
- Install permanent settlement monuments
- Place seed mix for revegetation
- Complete monitoring systems (connect pressure and temperature monitoring systems to power panel)
- Complete cap drainage monitoring (install collection manholes, connect piping and install meter(s)/pump(s) on Cell A only)
- Certify closure, record deed notation, notice to LAEPC
- Begin post-closure monitoring and maintenance

Appendix 4.B: Elements for clean closure at Pond 18 Cell B

- Withdraw water for process use consistent with schedule to be set forth in revised Pond 18 closure plan but in no event later than May 26, 2005
- Maintain bird net and FTIR system on 18B until water is pumped off by decant pumps
- Wash tertiary liner as needed during water draw down
- Remove bird net and FTIR system
- Remove residual solids, if any, and treat through LDR system or otherwise manage in accordance with RCRA regulations (off-site disposal)
- Begin removal of liner system and sampling of underlying layer(s), clean closure achieved when sampling results demonstrate no residual contamination, dispose of removed materials appropriately
- Grade area as needed for drainage of rainwater runoff from cell 18A final cap
- Certify closure